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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

Single Bench : Hon'ble Shri S.R. Nayak, CJ

Writ Petition No. 6441OF 2005

Petitioner S.K. Azad Ali S/o S.K. Sohorab Gani, Aged 32 years R/o Village Dohitpur Post Tildanga, P.S. Farakka, District Murshidabad West Bengal.

Versus

Respondents

1. The Employees' Provident Fund Organization, Ministry of Labour, Govt. of India Through The Central Provident Fund Commissioner, New Delhi.
2. The Regional Provident Fund Commissioner, Regional Office, Pandri Raipur (C.G.)
3. Recovery Officer & Assistant Provident Fund Commissioner, Regional Office Pandri, Raipur (C.G.)

Present:
Mr.Vinod Deshmukh, learned counsel for the petitioner.

ORAL ORDER

(Passed on 22nd of December 2005)

In this writ petition the determination made by the 2nd respondent under Section 7-A of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short "the Act") and subsequent recovery proceedings initiated under Section 8-F of the Act has been assailed, amongst other grounds, on the ground that the 2nd respondent determined the liability of the petitioner under Section 7-A of the Act without giving any opportunity of being heard to the petitioner. It is true that in certain circumstances, if the Court finds that an adverse order is made by the statutory authority in utter violation of the principles of natural justice, it could step-in under Article 226 of the Constitution of India and entertain

the grievance of such person notwithstanding the fact that the applicant has not exhausted the alternative remedy, but, as well settled, the discretion to be exercised by the Court in that regard is a rule of convenience and not a rule of law. There is no hard and fast rule that High Court under Article 226 of the Constitution should entertain each and every grievance simply, because, the applicant for the writ alleges that adverse order is made without complying with the principles of natural justice. Particularly, in this case, there is absolutely no necessity for this Court to entertain this writ petition, because, the petitioner has very comprehensive, efficacious alternative legal remedy by way of an appeal as well as review under Sections 7-I and 7-B of the Act respectively. It is needless to state that the appeal remedy is more efficacious and more comprehensive than the relief that may be granted by this Court under Article 226 of the Constitution of India. Secondly, this Court cannot go into the questions of fact in a summary proceeding under Article 226 of the Constitution of India. Looking from any angle, I am not inclined to entertain this writ petition. The writ petition is, therefore, dismissed, however, leaving open all the contentions raised by the petitioner in this writ petition to be agitated before the appellate authority in the even of he filing an appeal under Sections 7-I of the

Sd/-
Chief Justice